

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Randy Buns,
Appellant,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 13-25-0484
Parcel No. 12-35-326-035

On December 19, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Randy Buns was self-represented and requested his appeal be considered without hearing. The Board of Review designated County Attorney Wayne M. Reisetter as its legal representative and submitted evidence in support of its position. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Randy Buns, owner of property located at 1132 SE Williams Court, Waukee, Iowa, appeals from the Dallas County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story, townhouse having 1126 total square feet of living area, and a full, unfinished basement. It also has a 477 square-foot attached garage and an open porch. The improvements were built in 2007. The dwelling has a good quality grade (3-10) and is listed in normal condition. Its site is 0.06-acres. The improvements are located in the Williams Pointe subdivision.

The real estate was classified residential on the initial assessment of January 1, 2013, and valued at \$140,080, representing \$28,000 in land value and \$112,080 in improvement value. Buns

protested to the Board of Review on the grounds that the property assessment was not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a)(1); and that there was an error in the assessment under section 441.37(1)(a)(4). It appears his error claim is essentially a claim that the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2). The Board of Review denied the protest.

Buns then filed his appeal with this Board and urged the same grounds. He now claims \$110,000 is the actual value and fair assessment of the subject property.

On his Board of Review protest form, Buns identified five properties in Waukee he felt were comparable to his property. He listed the assessed value and location of each. Based on his limited analysis of these assessments, Buns claimed \$93,000, or \$85 per-square-foot, was a fair assessment for his property. According to Assessor Steve Helm, the properties listed by Buns were all two-story townhomes and in Helm's opinion, not comparable to Buns' one-story townhome. (Exhibit A). We also note these townhomes were located in the subdivisions of Woodland Lake, Westgate Townhomes, Willow Brook Townhomes, Country Club Ridge Townhomes and Townhomes of Silver Oak, while Buns' property is located in the Williams Pointe subdivision. There is no information to indicate these properties have sold recently and no property details were provided.

With his appeal to this Board, Buns submitted information on five other townhouses on his street that recently sold to support his claims. He provided the address, date sold, sale price, total square feet of living area, and sale price per-square-foot for each property. As this is the only information in the record, we are unable to determine if Buns' comparable properties are one-story townhomes similar to his or are two-story townhomes similar to those he listed on his Board of Review petition. Based on Buns' description, however, it appears that these properties are all roughly 200 square-feet larger than the subject. With only this limited information, this Board is unable to use the evidence he offered to determine whether these properties are comparable to his and whether his

property assessment is equitable with those of the compared properties. Further, Buns calculated the average price per-square-foot (total sale prices of all properties divided by total square feet of living area) and multiplied this figure by his total square feet of living area to arrive at his value estimate of \$110,000. This is not a recognized and accepted method of valuation. We note that the price per-square-foot of a property, all else being equal, will decrease as a property's size increases. *See* APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE pp. 40 (13th ed. 2008) (discussing the law of decreasing returns). Thus, Buns' method utilizing properties larger than the subject, without adjustment, would likely undervalue the subject property. Additionally, Buns failed to provide any evidence to show the fair market value of his property, such as an appraisal or recent sale of the subject.

The Board of Review provided a recent sale of a property located at 642 SE Williams Court in Buns' Williams Pointe subdivision for comparison. (Exhibit B). The property is a one-story townhome with 1119 total square feet of living area built in 2004. It has a 418 square foot attached garage and a full, unfinished basement. It is an end unit, like Buns' unit, and has the same quality grade and condition. This property sold in May 2013, for \$162,500, or \$145.22 per-square-foot. The property's 2013 assessed value is \$153,200, yielding an assessment/sales ratio of 0.94. This ratio suggests 642 SE Williams Court is under-assessed. However, an equity analysis requires more than one comparable property as well as evidence of the subject's actual value.

Buns did not provide sufficient information to conduct an assessment/sales ratio study in order to analyze his equity claim. Additionally, Buns did not establish the subject's fair market value as of January 1, 2013. In summary, the preponderance of the evidence does not support Buns' claims of inequitable assessment or over-assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

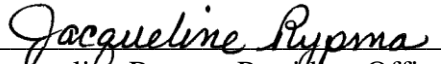
“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

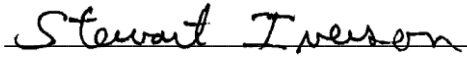
Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. Buns did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

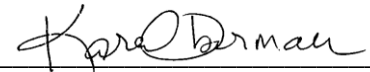
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Although Buns provided a list of sold properties, he did not submit any additional information, such as their property record cards, for this Board to determine if those properties are comparable to the subject and did not adjust those sales for differences. Further, the method Buns used to arrive at his value conclusion likely undervalues the subject property. Ultimately, Buns’ evidence did not establish the fair market value of his property as of January 1, 2013. Therefore, we find a preponderance of the evidence does not prove his property is over-assessed.

THE APPEAL BOARD ORDERS that the January 1, 2013, assessment as determined by the Dallas County Board of Review is affirmed.

Dated this 27th day of January, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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